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HILLER AIRCRAFT

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August 27, 1997

OFFICE OF THE CHIEF COUNSEL RULES DOCKET
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Federal Aviation Administration
Office of the Chief Counsel
ATTENTION: Rules Docket AGC-200, Docket No. 28903
800 Independence Avenue SW
Washington, DC 20591

Dear Sir,

Hiller Aircraft Corporation hereby submits comments on the Notice of Proposed Rulemaking, Docket No. 28903, Notice 97-7.

Hiller Aircraft is opposed to the proposed change for the following reasons;

1. The proposed regulation does not create, expand or clarify a regulatory requirement that is not otherwise provided for in FAR 21.16, 21.19 and 39.1. The ability of the FAA to impose later airworthiness standards, even on a design that is not undergoing a design change already exists in these three regulations. The FAA has the ability to invoke any one of these regulations and require a certificate holder to comply with any regulation or special condition deemed appropriate by the FAA.

2. The proposed regulation does not provide or expand a regulatory requirement necessary to require an increased level of safety. FAR 21.16, 21.19 and 39.1 already provide the FAA with the regulatory authority to invoke whatever requirements the FAA determines is appropriate for safety. These three regulations establish that the FAA has the regulatory flexibility to prescribe applicable rules for any newly proposed design, any design being considered for change and any design found to be unsafe through field experience.

3. As indicated above, existing regulations FAR 21.16 and 21.19 provide for requiring compliance with later airworthiness standards whenever the FAA deems this is necessary. The FAA has used these regulation in the past successfully without the need for the proposed revision. The preamble cites a specific example from 1980 when the FAA required an amendment to a 1964 TC when the manufacturer installed turboprop engines on a reciprocating engine aircraft. This same procedure was applied to Enstrom Helicopter Corporations amended TC when they introduced their model 480 helicopter. In Enstrom's case, they added a totally new design turbine powered helicopter on a TC that previously contained only piston powered aircraft. The original Enstrom TC contained a CAR certification basis however the FAA mandated the newly introduced turbine model comply with certain current FAR requirements. So in at least two instances the FAA has demonstrated that they can impose later airworthiness standards on existing Type Certificated products without the need for this proposed rule.

3. The proposed regulation requires that the FAA evaluate the economic impact of a proposed change on the manufacturer and balance that cost with the improvement in safety whenever a proposed change would result in a increase in safety if later provisions

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of the regulations would increase the level of safety if complied with. Under the proposed regulation and as outlined in the draft Advisory Circular 21.101-XX undated, it becomes incumbent on the manufacturer to cost justify continued compliance with an earlier regulation. The FAA then has rights of refusal to this justification. The FAA has not provided guidance on just what value should be used for injuries and deaths when comparing the manufacturers cost of implementing a change. Without such guidance from the FAA, there will be inequities in evaluating economic justifications between different FAA field offices and even between different FAA personnel involved in making such judgments.

4. The proposed regulation is inconsistent with past practice of the FAA. In the past, the FAA has allowed continued production of products made to a lower safety performance standard after the FAA has released an improved standard One clear example is when TSO C22g was released to improve the level of safety provided by occupant seat belts. The FAA originally intended to require mandatory compliance with the new TSO but subsequently authorized continued production of TSO C22f belts - at a lower level of protection to the user.

5. This NPRM appears to create an inequity between the design control exerted on a type Certificated product and a Parts Manufacturing Approval (PMA) part produced under FAR Part 21, Subpart K. The end result will be that TC/PC holder designs will comply with later regulations while PMA produced parts will not. The inequity created by this situation will be an economic burden placed on the TC holder that is not felt by the PMA holder.

Although current FAR 21.303 (c) (4) states that a PMA part is to meet the regulations in effect for the using product, it is the intention of the revised rule to require compliance with later regulations when a significant design change is implemented by the TC holder. It can be anticipated that TC holders will take this into consideration even for non-significant changes as a precautionary measure in the event a future change will require compliance with a later regulation. A direct result of this will be a interchangability and configuration control nightmare which the FAA will be forced to deal with in order to maintain the integrity of the installation eligibility defined for a PMA part.

6. Currently the Type Certificate Data Sheets (TCDS) lists the certification basis for each product. The currentness of the data on a TCDS is questionable at best. In the proposed change the FAA has not addressed the problem of publishing timely updated to the TCDS. At present, changes can take over two years to be published. For the TCDS to be meaningful for field use not only must the changes be published quickly, but they must also indicate the specific parts or systems complying with a variety of regulations. What once was a single paragraph on a TCDS may now become pages of data. This will be a tremendous cost driver to the FAA and hence the public. It will also result in a dramatic increase in revisions to the TCDS and its attendant publications logistics problems.

In summary, Hiller Aircraft Corporation is opposed to adoption of the NPRM. The stated intention of the NPRM is to create a regulatory environment where technological change continually drives the level of safety up. The NPRM does not achieve this beyond current regulatory provisions of the FAR. Why then is this change necessary? It appears that the only reason for this change is to have the FAA become involved in a cost - benefit analysis. When all is said and done, the proposed regulation does not provide the FAA any additional regulatory power not already available in current regulation. It will however create a tremendous new administrative burden on both the FAA and manufacturers. WHY? Lets not fix something that is not broke.

Sincerely,

Hiller Aircraft Corporation

Steve Palm

Steven L. Palm
Director of Quality Assurance